

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

ERIC WALKER, *et al.*)
vs.)
Plaintiffs,)
BUILDDIRECT.COM TECHNOLOGIES,) Case No. CIV-11-800-D
INC., *et al.*,)
Defendants.)

ORDER

Before the Court are BuildDirect.com Technologies, Inc.'s Motion to Dismiss Class Action Complaint [Doc. No. 14] and Motion to Compel Arbitration and Dismiss [Doc. No. 15]. Both challenge the sufficiency of the Class Action Complaint to permit Plaintiffs to proceed with a civil action in this Court. However, on September 19, 2011, Plaintiffs timely filed their First Amended Class Action Complaint [Doc. No. 18].¹ This amendment supersedes Plaintiffs' original pleading and renders it of no legal effect. *See Davis v. TXO Prod. Corp.*, 929 F.2d 1515, 1517 (10th Cir. 1991); *see also Mink v. Suthers*, 482 F.3d 1244, 1254 (10th Cir. 2007); *Miller v. Glanz*, 948 F.2d 1562, 1565 (10th Cir. 1991). Accordingly, Defendant's Motions directed at Plaintiffs' original pleading are moot.

¹ A plaintiff may amend as a matter of right within 21 days after service of a Rule 12(b) motion or a responsive pleading. *See Fed. R. Civ. P. 15(a)(1)(B)*.

IT IS THEREFORE ORDERED that Defendant's Motions [Doc. Nos. 14 and 15] are DENIED without prejudice to resubmission, if appropriate, in response to the amended pleading.

IT IS SO ORDERED this 20th day of September, 2011.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE